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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

THIRD APPELLATE DISTRICT

(Nevada)

THE PEOPLE,

Plaintiff and Respondent,

v.

JULI ANN ABDEEN,

Defendant and Appellant.

C081554

(Super. Ct. No. SF12-191)

This appeal comes to us pursuant to *People v. Wende* (1979) 25 Cal.3d 436 (*Wende*).

An information filed September 5, 2012, charged defendant Juli Ann Abdeen with possession of a controlled substance with a firearm (count I; Health & Saf. Code, § 11370.1, subd. (a)); possession for sale of a controlled substance (heroin) (count II; Health & Saf. Code, § 11351); possession for sale of a controlled substance

(methamphetamine) (count III; Health & Saf. Code, § 11378); possession of an injection or ingestion device (count IV; Health & Saf. Code, § 11364, subd. (a)); cultivating marijuana (count V; Health & Saf. Code, § 11358); and being under the influence of a controlled substance (count VI; Health & Saf. Code, § 11550, subd. (a)). As to counts II and III, the information alleged that defendant was armed with a firearm in the commission or attempted commission of the offenses. (Pen. Code,¹ § 12022, subd. (a)(1).)

As to count V, the information alleged that defendant committed the offense while released on bail or own recognizance. (§ 12022.1.)

As part of a case consolidation related to defendant's plea agreement, the information was amended to add count VII, felony failure to appear while released on bail. (§ 1320.5.)

On November 2, 2015, defendant pleaded no contest to counts II, III, and VII and admitted the on-bail enhancement, with the remaining charges dismissed on the People's motion. The trial court sentenced defendant to a total term of six years four months, consisting of three years (the midterm) on count II, two years consecutive for the on-bail enhancement, eight months (one-third the midterm) consecutive on count III, and eight months consecutive on count VII. The court then suspended execution of sentence and placed defendant on five years of formal probation in adult drug court.

On November 13, 2015, the Nevada County Probation Department filed an affidavit of violation of probation, alleging that defendant failed to complete her mandatory drug treatment program and failed to advise her probation officer of her change in residence on leaving the program. The trial court revoked defendant's probation.

¹ Undesignated statutory references are to the Penal Code.

On January 22, 2016, defendant admitted the probation violation. The trial court terminated defendant's adult drug court probation, then imposed the previously suspended six-year four-month sentence (four years four months in county jail, followed by two years on mandatory supervision). The court awarded defendant 396 days of presentence custody credit (198 actual days & 198 conduct days). The court vacated the previously imposed \$650 adult drug court fee and imposed the following previously stayed fines and fees: a \$735 "penal fine"; a \$120 court operations fee (§ 1465.8); a \$90 conviction assessment fee (Gov. Code, § 70373); a \$300 restitution fine (§ 1202.4); a \$300 probation revocation restitution fine, now due (§ 1202.44); a \$25 fee for reimbursement of county booking expenses (Gov. Code, § 29550); a \$120 drug testing fee (§ 1203.1); and a \$150 drug program fee (Health & Saf. Code, § 11372.7).²

The parties stipulated to the following factual basis for defendant's plea: On July 27, 2011, during a search of defendant's residence, where her son, who was on searchable probation, was living, defendant was found sitting on a couch next to a bag which contained substantial amounts of heroin and methamphetamine (over one ounce of heroin and about five grams of methamphetamine); expert witnesses testified that the totality of the circumstances showed both drugs were possessed for purposes of sale. Subsequently, defendant failed to appear for a pretrial conference on July 5, 2013.

As to the violation of probation, the parties stipulated that on or about November 11, 2015, defendant failed to complete treatment as directed by the trial court, and failed to advise the probation officer of her residence or whereabouts.

² On July 19, 2016, in response to a letter from appellate counsel, the trial court issued an amended abstract of judgment which states that the \$735 "penal fine" is ordered pursuant to Health and Safety Code section 11372, subdivision (a) and breaks the fine down as follows: a \$200 base fine; a \$200 state penalty assessment (§ 1464); a \$95 county penalty assessment (Gov. Code, § 76000); a \$100 DNA collection penalty (Gov. Code, §§ 76104.6-76104.7); a \$100 court facility penalty (Gov. Code, § 70372, subd. (a)); and a \$40 state surcharge (§ 1465.7).

Defendant filed a timely notice of appeal. She did not request or receive a certificate of probable cause.

We appointed counsel to represent defendant on appeal. Counsel filed an opening brief that sets forth the facts of the case and requests this court to review the record and determine whether there are any arguable issues on appeal. (*Wende, supra*, 25 Cal.3d 436.) Defendant was advised by counsel of the right to file a supplemental brief within 30 days of the date of filing of the opening brief.

Defendant filed a supplemental brief which contends that her trial counsel coerced her into entering a plea and going into adult drug court rather than fighting the charges against her. She claims that she never sold drugs and possessed the drugs found at her residence solely for her own use. These contentions cannot be addressed on appeal.

A defendant appealing from a judgment of conviction upon a plea of no contest must obtain a certificate of probable cause from the trial court (Cal. Rules of Court, rule 8.304(b)(1)), unless the appeal is based on the denial of a suppression motion (*id.*, rule 8.304 (b)(4)(A)) or on “[g]rounds that arose after entry of the plea and do not affect the plea’s validity” (*id.*, rule 8.304 (b)(4)(B)). (See § 1237.5, subd. (b); *People v. Cuevas* (2008) 44 Cal.4th 374, 383-384.) We must apply these rules strictly. (*People v. Mendez* (1999) 19 Cal.4th 1084, 1098.)

Defendant’s contentions challenge matters that arose before the plea and the validity of the plea itself. Thus, her failure to obtain a certificate of probable cause precludes review of these contentions.

Having undertaken an examination of the entire record, we find no arguable error that would result in a disposition more favorable to defendant.

DISPOSITION

The judgment is affirmed.

/s/
Blease, Acting P. J.

We concur:

/s/
Butz, J.

/s/
Mauro, J.